IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

Cr.A.No.547 of 2000

Date of Decision :5th October, 2007

State of H.P. …Appellant.

Versus:

Khindu Ram. …Respondent.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for judgment?[1]

For the appellant: Mr.Ashok Chaudhary, Addl. Advocate General. .

For Respondent. Mr.Anand Sharma ,Advocate.

Sanjay Karol, J.

The present appeal arises out of the judgment dated 13th July, 2000 passed by Special Judge, Chamba, Division, Chamba in Sessions Case No. 26 of 1998 titled as State of H.P. Vs. Khindu Ram acquitting the accused of the charged offence under Sections 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per the case of the prosecution, on 18th March, 1998 in the meeting of the gram Sabha being held in the Panchayat premises at village Kandwara H.P, in the presence of Khindu Ram (PW-2) and Krishan Chand (PW-3),

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

the accused came and disturbed the proceedings and called PW-1 as 'Chanal' (the Scheduled Caste) and not competent to hold the chair of President of the Gram Panchayat. The matter was reported to the Police vide complaint (Ext.PA) on the basis of which F.I.R. No.33 of 1998 under Sections 3(1)(x) of the Scheduled Caste and Scheduled tribes (Prevention of Atrocities) Act, 1989 was registered with Police Station Kihar, District Chamba, H.P.

After completing the investigation, the challan was presented in the Court for trial and the charges against the accused persons under Sections 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were framed. The accused pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined seven witnesses out of which the depositions of PW-1, PW-2 and PW-3 are relevant and material as the alleged offence is stated to have taken place in the presence of the said witnesses and rest of the witnesses, namely, Smt. Usha (PW-4), Madan Pal (PW-5) and Naresh Kumar (PW-6) are of formal nature. Sh. Santosh Patyal (PW-7) is the Deputy Superintendent of Police who has carried out the investigation.

The Court below acquitted the accused on the ground that the prosecution had not placed on record the application dated 18th March, 1998 (Ext.PB) which was the

first complaint lodged by PW-1 with Deputy Commissioner disclosing the events which had taken place in the meeting allegedly convened on 18th March, 1998. Appreciating the evidence, the court below concluded that there is material concealment and contradictions in the disclosure of events with regard to the said application and there is an improvement and delay in lodging the F.I.R. which is fatal to the prosecution case.

I have examined the material on record as also the statements of the witnesses. It has come on record through the statement of PW-1 that the record of the proceedings of the meeting was not handed over to the Police by him. The fact that the meeting took place is in dispute by the accused. The absence of any record to show that the meeting was held itself raises doubt about the prosecution case. The accused has taken a defence of false implication on the ground that he had successfully contested the Panchayat election against PW-2 and also against one Shri Birbal against whom a criminal prosecution was launched in which he was a witness. A copy of the said judgment is on record as Ext.DB.

In this back ground the statement of PW-2 is to be examined with caution. He has also not denied the suggestion that Chet Ram brother of PW-2 had contested the election against the accused. Importantly, PW-2 has stated that he does not know the exact caste of PW-1.

From the perusal of first complaint made by the complainant PW-1 on 18th March, 1998 it is clear that he does not even mention that the accused had called him as 'Chanal'. There is major variation and improvements in the second complaint (Ext.PA) filed by PW-1 on 1st May 1998. Therefore, there is no merit in the prosecution case.

In my view, the court below has correctly appreciated the material on record while arriving at its conclusion. I see no reason to interfere with the same. The appeal is accordingly dismissed. The bail bonds are discharged.

(Sanjay Karol),
Judge.

October 5, 2007(R)